



**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

Richard Kelter, Individually and as Trustee of
the Richard Kelter Trust dated June 30, 2004,

Plaintiff,

v.

Apex Equity Options Fund, LP, Apex Equity
Management, LLC, Kyle J. Thompson, Cory
H. Thompson, Thompson Consulting, Inc.,
Sherwood Financial Inc., E. Sherman Warner,
M&K Holdings, LLC, Michael T. Morley,
Krystin P. Morley, and Willowbend Property
Company, LLC.

Defendants.

Civil Action No: 08cv2911 (NRB)(ECF)

STIPULATION AND ORDER

WHEREAS, on or about May 23, 2008, defendants Michael T. Morley, Krystin P. Morley, M&K Holdings, LLC, and Willowbend Property Company, LLC (collectively, "moving defendants") informed the Court of their intention to file a motion, pursuant to Fed.R.Civ.P. 12(b)(2) and 12(b)(6), to dismiss the claim of plaintiff, Richard Kelter against the moving defendants, and to request a pre-motion conference;

WHEREAS, moving defendants argue in part that dismissal is appropriate because the court lacks personal jurisdiction over them and plaintiff opposes that argument and contends that the Court does have jurisdiction over moving defendants;

WHEREAS, the Court has requested and received letters from both plaintiff and moving defendants setting forth their respective positions on these issues, directed the parties to engage in limited jurisdictional discovery, and held two pre-motion conferences;

WHEREAS, at the conclusion of the jurisdictional discovery, and pre-motion conferences, the parties maintained their respective positions and, accordingly, the Court directed plaintiff and moving defendants to mutually agree upon a briefing schedule for the motion to dismiss of moving defendants and the opposition of plaintiff;

WHEREAS, in accordance with the Court's directive, plaintiff and moving defendants have conferred and agreed upon the briefing schedule set forth below;

It is hereby STIPULATED AND AGREED, by and between plaintiff and moving defendants, that the briefing schedule shall be as follows:

- Moving defendants shall file and serve a motion to dismiss with supporting memorandum of law and any affidavits or exhibits by **Monday, September 22, 2008**
- Plaintiff shall file and serve opposition papers by **Monday, October 13, 2008**
- Moving defendants shall file and serve reply papers by **Friday, October 24, 2008**

FURTHER STIPULATED AND AGREED that a facsimile or electronic signature on this document shall have the same force and effect as an original signature.

Dated: August 27, 2008

SHEPPARD, MULLIN, RICHTER
& HAMPTON, LLP

By: 

Kevin Goering
Bardia Bakhtari
30 Rockefeller Plaza, Suite 2400
New York, NY 10112

FOX ROTHSCHILD LLP

By: 

John A. Wait
100 Park Avenue, 15th Floor
New York, NY 10017

SO ORDERED:


U.S.D.J.


Date